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C O N F I D E N T I A L SECTION 01 OF 04 GUATEMALA 002040

SIPDIS

FOR WHA/AS NORIEGA AND DAS FISK FROM THE AMBASSADOR

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SUBJECT: GETTING AHEAD OF THE POLICY CURVE IN GUATEMALA

Classified By: Ambassador John R. Hamilton for reason 1.5 (b) and (d).

1. (C) Summary: We need to be planning now as to how we would respond to a variety of contingencies during the campaign and as a result of the November 9 elections. I believe we have in place most of the policy elements we need: a sound public position on the Rios Montt candidacy in the May 27 Boucher statement (relations with a Rios Montt government would not be "cordial"); a robust (\$2.4 million) program of support to the elections, including both national and international (OAS) election observation; grants to monitor possible misuse of state resources; support to the elections tribunal and a campaign to educate the rural poor in particular that the ballot is genuinely secret. Among these, the OAS mission may require plus-ing up from its current \$640,000 budget. Although legal challenges to the candidacy of General Rios Montt are still being filed, the political opposition, sensibly, has decided to oppose him at the polls, not pull out of the elections. But in persistent, loud cries of fraud, the opposition and civil society are laying the groundwork for challenging the legitimacy of a putative Rios Montt victory, however remote that appears now. (He stands at 11% in the polls, with disapproval ratings above 60%.) Our major challenge during the elections is to encourage a high rate of participation. We are doing that through campaigns to convince the public the ballot is secret and that the safeguards against election-day fraud are adequate.

2. (C) Rios Montt is determined to run and, if wins in a reasonably fair process, we should recognize his victory and deal with him, albeit coolly, and by putting down tough markers on organized crime, corruption, human rights and reform of the military. We need not/not be concerned that he would refuse to deal with us: to the contrary, our problem will be fending off a charm offensive designed to gain legitimacy through U.S. acceptance of him. If he wins in a badly flawed election, however, we should re-jigger CAFTA to exclude Guatemala and go to the OAS to seek new elections (as in the Dominican Republic in 1994) or, at the very minimum, an OAS-monitored reform process (as in Peru in 2000). We should set the stage for that contingency by having the OAS election mission report to the OAS Permanent Council in October.

3. (C) We should also plan for the more likely outcome: a credible victory by, say, Oscar Berger or Alvaro Colom (a win by any of the others is improbable). We should embrace such a government publicly and provide significant new resources for rule of law and anti-corruption programs, peace accords implementation and other bilateral aid programs. However, our responses would be handicapped by the historically low levels of DA and ESF currently being planned for Guatemala, especially relative to its more politically stable neighbors. Therefore, I urge that WHY FY 2004 DA and ESF allocations be flexible, in order to preserve the option of increasing them significantly. Whoever wins, we need to support the Commission (in formation) to investigate clandestine groups and use our military-to-military programs to push the Guatemalan military toward reform. End summary.

Background

4. (C) The intense political confrontation that has characterized the four years of the Portillo Government has effectively polarized the ruling FRG and its opposition -- which includes practically all sectors of Guatemalan society. This has led to an increasingly poisonous electoral environment with growing violence (12 provincial party activists dead already), mutual hostility, and cries of fraud by the opposition to discredit FRG candidate Efraim Rios Montt. Manipulation by the FRG and/or the opposition temporarily transferred the electoral debate to the judiciary, effectively damaging the credibility of both the Constitutional Court and the Supreme Court, and generating more public cynicism. Guatemala's now past that impasse, by virtue of the Constitutional Court's July 30 slam dunk of the Supreme Court, ordering the registration of Rios Montt. Although legal challenges to his candidacy are still being filed, the likelihood that one would at this point succeed is remote. The opposition and civil society -- sensibly -- have decided to contest his candidacy at the polls, not to boycott the elections. Although the Guatemalan Constitution thus

takes a hit, the political result (assuming the General loses) may be better for Guatemala.

15. (C) An unintended casualty of the warnings of potential fraud has been the discrediting of the elections themselves. A July poll shows that two-thirds of Guatemalans have no interest in the elections and don't believe they will change anything in Guatemala. Voter turnout (traditionally low) will surely suffer, benefiting the party best able to turn out its core supporters (probably the FRG). By convincing the population that electoral fraud is already in progress, the opposition is setting the stage to challenge the results of the election in the event they lose. There is a risk that the new government, whoever wins, may lack the legitimacy of being recognized by all political actors.

16. (C) The polls currently give pro-business GANA candidate Oscar Berger a 40% to 11% lead over FRG candidate Efraín Ríos Montt (though conventional wisdom and past experience tell us that the polls underestimate the rural vote, where the FRG has its strength). Alvaro Colom, of the centrist National Union for Hope Party (UNE), could sneak into a second round runoff against Berger, in which case he could emerge the victor. Guatemala's unbroken tradition of not reelecting the party in power and the large number of voters who say they would never vote for the former dictator add to the view that the chances of Ríos Montt winning the presidency are not high. However, with three months left in the campaign and little popular enthusiasm for the other candidates, we can not rule out the possibility of a genuine Ríos Montt victory.

17. (C) Guatemala's history has led the political actors to view elections as a winner-take-all, zero sum game. The FRG is desperate to hold onto power, in part to protect itself from investigations into Portillo-era corruption and to ensure continued access to resources. The opposition also sees this as its last chance to prevent "Colombianization," and therefore it is do or die for them, too. Guatemala lacks good mediating institutions, as no one institution is above the political fray, able to communicate, and serve as a go-between for all sides. The church, which plays this role in some Latin American societies, suffers from weak leadership. The international community has played this role effectively since the negotiation of the Peace Accords, but at the cost of Guatemalans not developing their own institutions to play this role. The OAS is best positioned to serve as a go-between, as it has the best combination of communication to both sides. The U.S. has these credentials as well. But there are risks for us if we get into the middle of this, as neither side is open to concessions and each wants us to impose its will on the other.

18. (C) On the up side, Guatemala has a good electoral law, and the Supreme Electoral Tribunal (TSE) is viewed as professional and honest. The magistrates are politically divided (2 of 5 are hard-core FRG) and the three non-FRG are hardly made of stern stuff, but the staff is highly professional and neither the FRG nor the opposition question the impartiality of how the TSE will carry out the elections. The register of voters ("padron electoral") is in reasonably good shape, and the use of indelible ink will control against double voting. Each party is entitled to poll watchers who can prevent fraud at the ballot box. One national and two international election observation missions and at least two quick counts will check fraud in the vote tabulation.

19. (C) The greatest concern of the opposition is the potential for misuse of state resources for electoral ends. In our view, that concern is much exaggerated, as the Guatemalan state is chronically resource-scarce and has few programs (fertilizers, ex-PAC payments and school lunches aside) that in many countries lend themselves to electoral manipulation. Anticipating this problem, we have awarded several grants to NGO's to monitor and report publicly on misuse of state resources. They are already reporting publicly. We are also demarching the government about some troubling early indications of possible misuse of state resources; replacement of the professional, apolitical head of Guatemala's national disaster relief organization (CONRED) by an FRG political hack and Guatemala's recent move to pull out of a joint customs operation with El Salvador, to set up its own customs (and revenue-generating) control. Both decisions were taken by the FRG hard-liner Vice President Reyes López, when President Portillo was out of the country. Publicity, effective work of the TSE and a robust election observation effort are the best ways to keep fraud in check.

110. (C) The use of violence, which has increased in recent weeks, could become a tactic to keep the large swing vote at home, and there is no easy cure for that. But as Codel Ballenger did during their August 4-6 visit here, we will continually hold up the example in our public diplomacy of war-era El Salvador, where as many as 85% of registered voters voted, despite threats. Public and private admonitions to the FRG to control violence have received much attention. We will use CAFTA and every other incentive and

disincentive at our disposal to induce decent FRG (and opposition) behavior.

How do we respond if a large portion of the opposition and civil society starts to boycott the elections?

11. (C) There have been calls by some segments of civil society to boycott the elections, claiming that the Constitutional Court decision in favor of Rios Montt has already vitiated the process. None of the political parties has joined this movement, in part because at this point they believe the election will favor them. Short of abuse so blatant as to totally discredit continuation of the election, we should urge continued participation, i.e., not leaving the field to the FRG. We will stay in close coordination/communication with the observation missions. The Embassy placed an op ed piece under the Ambassador's signature in the August 8 press calling attention to safeguards against fraud and urging voter participation, rejection of cynicism and apathy. We have also inserted that message into the op ed by Assistant Secretary Noriega. Washington needs to give the same message to visiting delegations and explain our position to the Washington NGO community and to Congressional staff.

How do we deal with a Rios Montt government, if that comes to pass?

12. (C) If current trends remain constant, Rios Montt will not win the election. However, we should not discount the possibility that it could happen. Under the assumption that Rios Montt were elected in elections that were reasonably free/fair, we should adopt a distinctly cool, cautious approach, putting down stringent markers. Our biggest problem will not/not be to repair damage to relations with the FRG, but rather to deal with their charm offensive, their wish to cooperate with us and to be embraced by us as their avenue to internal and international legitimacy. At a minimum, the Ambassador could be instructed to put down markers in a meeting following the second round of the elections (December 28). Sending a special emissary from Washington is another possibility, although the optics of a special emissary (squaring that with the May 27 Boucher statement) are difficult. But we should not send a high-level delegation to the inauguration. We can take as a given the FRG/Rios Montt's profession of wanting to fully cooperate on drugs, counter-terrorism, alien smuggling and most international issues. They will also be committed to CAFTA. But we should insist on their breaking all ties with organized crime, fully supporting CICIACS (the commission to investigate so-called clandestine groups), purging the police of corrupt elements, reforming military intelligence and making every possible effort to put an end to threats against the human rights community.

13. (C) Whether his victory under these circumstances would irreparably prejudice Congressional approval of CAFTA is Washington's call. On the assumption that it would, we have considered whether a direct private appeal -- possible through a private emissary -- would yet dissuade Rios Montt from running. We are convinced that it would not and that, if it became public, could only make us look ingenuous for having attempted it. Rios Montt did not go through the huge effort to pack and pressure the Constitutional Court, and to mount the July 24-25 protests only to withdraw now. He wants to run, his wife and family want him to run, and his followers in the FRG are convinced that they will virtually disappear as an institution if he does not head the ticket.

14. (C) If Rios Montt wins in an election that does not meet minimum standards, however, we should seek to invoke the Inter-American Charter (or Resolution 1080) to seek new elections (as in the Dominican Republic in 1994) or, at a bare minimum, a resolution that would set up some sort of OAS-brokered dialogue (as in Peru in 2000) that would effectively put a Rios Montt government under international observation. We should lay the groundwork now for that contingency by asking the Secretary General to report to the Permanent Council on the election process, once the OAS election mission makes its first report at the beginning of October. We could take that step sooner, should some new, dramatic event alter the political landscape. The assassination of a major candidate or prominent public figure, for example, would surely constitute such an event and, in that case, we should respond immediately and positively to a request for FBI investigative assistance. We should also lower the boom on a fraudulent Rios Montt victory by revocation of GSP trade preferences and re-jiggering of the CAFTA to exclude Guatemala. All sorts of lesser responses to an unacceptably flawed election should be planned in advance, including recall of the Ambassador and non-attendance at a Rios Montt inauguration. The objective would be not to let a Rios Montt victory through fraud stand unchallenged.

How to engage with a good government?

15. (C) We should also plan now for a good outcome which, at this stage, appears more likely. We will want to send a high-level delegation to the inauguration (with a delegation head who will symbolize our commitment to CAFTA/economic prosperity; anti-corruption or aid on rule of law/public security issues). We should review our bilateral programs to see where they could be bolstered in the short term. Renewed Guatemalan commitment to the Peace Accords could be rewarded with increased assistance and a high-level delegation to a mid-year Consultative Group Meeting. NAS and ICITAP programs should be increased. The ATA anti-kidnapping training (an assessment team was just here) is small, but could be of invaluable assistance to a new government desperate to clamp down on organized crime. We should also offer VIP protective detail training. Assuming no military misbehavior during the campaign, the SouthCom Commander should visit in February or March, to inaugurate the New Horizons exercise and to bolster a new Government in the eyes of its military.

Using CICIACS to undermine the influence of organized crime

16. (C) Irrespective of who wins the elections, the next government will be forced early on to confront organized crime. We believe the establishment of CICIACS (the Guatemalan/UN/OAS joint commission against clandestine groups) offers the greatest hope for investigating and containing the role of organized crime in politics and the economy, and putting an end to the threats of against human rights workers. We should give serious consideration to providing new USG funding beyond the \$500,000 currently contemplated. We should also consider assigning a recently retired prosecutor or some similarly qualified person as a USG liaison to CICIACS during the duration of its work. We need to start an inter-agency process now/now to give CICIACS a product, shortly after its work starts, that details the essence of what we know about clandestine groups and organized crime in Guatemala. We should also consider detailing a U.S. security expert to CICIACS itself.

Conclusion

17. (C) In conclusion, we face a difficult but by no means impossible situation in Guatemala, and the opportunities to advance our interests significantly are at least as good as are the possibilities that things will get worse. A major concern I have is that Guatemala-bashing and a tendency to write Guatemala off have taken such strong hold in Washington that, through budget planning, we may already have precluded options for coming robustly to the support of a new, credible government. I urge that ESF and DA allocation decisions for FY2004 be marked with an asterisk for the moment, pending the outcome of these elections, with a view toward upping them considerably if a government we want to support comes to office in January. In the meantime, we have good communication with all the actors. That includes not only the opposition, but the Portillo government and the FRG itself. We will use every possible incentive and warning of disincentives to coax them into acceptable election behavior.
HAMILTON